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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,564	04/27/2001	Ming Yu Chang	01-03-1627	1790
23388	7590	03/15/2006	EXAMINER	
TROJAN LAW OFFICES 9250 WILSHIRE BLVD SUITE 325 BEVERLY HILLS, CA 90212			COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/844,564

Applicant(s)

CHANG, MING YU

Examiner

Josiah Cocks

Art Unit

3749

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

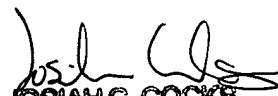
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
see continuation sheet.  
12. ☐ Note the Attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**JOSIAH C. COCKS**  
PRIMARY EXAMINER

**Advisory Action Continuation Sheet**

**Continuation of 11.**

Applicant's arguments have been fully considered but are not persuasive. The examiner maintains the rejections of the claims presented in the prior Office action.

Applicant argues that there is no motivation to combine the teachings of Zellweger with that of Jon. The examiner does not agree. As previously identified, Zellweger provides clear motivation to incorporation the bent edges (12 and 13) in a lighter such as that of Jon to provide a specific child safety feature (see Zellweger, col. 2, lines 12-23). The examiner considers that the teachings of Zellweger in preventing the pulp of a child's finger from accessing the striker wheel to be the same safety feature proposed by applicant in "preventing the striking wheel [from being] struck by a minor's thumb" (see U.S. Patent No. 5,897,307, col. 2, lines 23-24). However, even if applicant's resulting child safety feature were to be considered a different safety feature then that proposed by Zellweger, such an additional reason for combining is not sufficient to render applicant's claims free of the prior art. It has been held that the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). In this case, the safety feature of preventing the striking wheel from being struck by a minor's thumb would flow naturally from the bent-edges of Zellweger when combined with the lighter of Jon.

Applicant also appears to argue that the bent-edge members (12 and 13) of Zellweger are not abutting two sides of the striking wheel. However, the examiner notes that Fig. 3 of Zellweger clearly shows the bent-edge portions (12 and 13) arranged on either side of the striking wheel (6). There does appear to be small gaps between the bent-edges of the striking wheel, however, these gaps appear identical to the gaps shown in applicant's Fig. 4 between bent-edges (63' and 64') and striking wheel (52'). As applicant's arrangement is considered to be "abutting" then Zellweger's arrangement is likewise considered to be "abutting."

Applicant also argues that Zellweger does not show that the radii of the strike wheel and the corners of the windshield are equal. The examiner does not agree. This relationship appears to be clearly shown in Fig. 2 of Zellweger where the radius of the striking wheel (6, shown in phantom) appears equal to the radius of the curved corners of radius windguard (9). Further, the clear motivation to modify Jon to include such a relationship is to provide the child safety features described in Zellweger (again note Zellweger, col. 2, lines 12-23).

As previously indicated, applicant's claims 2, 3, 5, 6, 8, 9, 14, and 15 would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims.